

## SCHOONER THREE FRIENDS.

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LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS,  
TRANSMITTING A COPY OF THE CONCLUSIONS OF LAW AND  
FACT IN THE FRENCH SPOILIATION CASE RELATING TO  
SCHOONER THREE FRIENDS AGAINST THE UNITED STATES.

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JANUARY 23, 1902.—Referred to the Committee on Claims and ordered to be printed.

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COURT OF CLAIMS,  
*Washington, D. C., January 22, 1902.*

SIR: Pursuant to the order of the Court of Claims, I transmit herewith the conclusions of law and of fact filed under the act of January 20, 1885, in the French spoliation claims set out in the annexed findings by the court relating to the vessel schooner *Three Friends*, Samuel Miller, master.

Respectfully,

JOHN RANDOLPH,  
*Assistant Clerk Court of Claims.*

Hon. DAVID B. HENDERSON,  
*Speaker of the House of Representatives.*

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[Court of Claims. French spoliation. (Act of January 20, 1885. 23 Stat. L., 283.) Vessel schooner *Three Friends*, Samuel Miller, master.]

No. of case.

Claimant.

1840. Edward N. Dingley, administrator de bonis non cum testamento annexo of William Nickels, deceased, *v.* The United States.  
2520. Isaac F. Thompson, administrator of Robert Thompson, deceased, *v.* The United States.  
4068. David Chamberlain, administrator de bonis non cum testamento annexo of Samuel Miller, deceased, *v.* The United States.

### PRELIMINARY STATEMENT.

These cases were tried before the Court of Claims on the 22d day of May, 1901.

The claimants were represented by John St. C. Brookes and Rufus K. Sewall, esqs., and the United States, defendants, by the Attorney-General, through his assistants in the Department of Justice, Charles W. Russell, esq., with whom was Assistant Attorney-General Louis A. Pradt.

### CONCLUSIONS OF FACT.

The court, upon the evidence and after hearing the arguments and considering same with the briefs of counsel on each side, determine the facts to be as follows:

#### GENERAL FINDINGS RELATING TO THE VESSEL AND CARGO.

I. The schooner *Three Friends*, Samuel Miller, master, sailed on or about February 1, 1800, from Wiscasset, Mass. (now Maine), or some port in the vicinity, on a

commercial voyage bound for (some port in the West Indies, probably Marie Galante or Martinico), laden with a cargo of (lumber) owned as hereinafter set forth.

While peacefully pursuing her voyage the *Three Friends* was seized on the high seas on the 17th or 18th day of March, 1800, by the French privateer *La Tourterelle*, Captain Joseph Fenrier, and was, with her cargo, on the 23d day of March, 1800, condemned as good prize by the French tribunal of commerce and prizes established in the island of Gaudeloupe, sitting at Basseterre, in said island, whereby the said vessel and cargo became a total loss to the owners.

The grounds of condemnation as set forth in the decree are as follows:

"Whereas it appears from said analyzed documents and from said reports that the captain of the vessel in question has no bill of lading; that none was found among the papers shown him and which he recognized as genuine when interrogated; whereas he has no invoice or list of the crew, as he admitted when interrogated; whereas the cargo, in the absence of the documents, can not be sufficiently proven to be neutral."

It appears that the vessel was bought in at the sale by the master, he paying therefor the sum of \$2,000.

II. The *Three Friends* was a duly registered vessel of the United States of 126 $\frac{1}{2}$  tons burden; was built at Bristol, Mass., in 1799, and was owned solely, one-third each, by William Nickels, Robert Thompson, and Samuel Miller, her master, all citizens of the United States and residents, the said William Nickels and Samuel Miller of Pownalboro (or Wiscasset) Mass., and the said Robert Thompson of Bristol (or Wiscasset) Mass. (now Maine).

III. The nature, amount, value, and ownership of the cargo is not established by any competent evidence.

IV. The losses by reason of the capture and condemnation of the *Three Friends* were as follows:

Amount paid for vessel at sale in West Indies .....	\$2,000
Freight earnings for voyage .....	2,107
Total loss .....	4,107

#### SPECIAL FINDINGS RELATING TO THE SEVERAL CASES.

V. The losses to the different claimants by reason of the seizure and condemnation of the *Three Friends* were as follows:

##### 1840. William Nickels:

One-third amount paid for vessel in West Indies .....	\$666.67
One-third freight earnings .....	702.33
Total .....	1,369.00

##### 2520. Robert Thompson:

One-third amount paid for vessel in West Indies .....	\$666.67
One-third freight earnings .....	702.33
Total .....	1,369.00

##### 4068. Samuel Miller:

One-third amount paid for vessel in West Indies .....	\$666.67
One-third freight earnings .....	702.33
Total .....	1,369.00

The claimants herein have produced letters of administration respectively for the estates on which they have severally been appointed and qualified, and have otherwise proved to the satisfaction of the court that the parties on whose estates they are administrators were the same persons who suffered the aforesaid losses and were the original sufferers, and that they respectively represent the next of kin of said persons.

Said claims were not embraced in the convention between the United States and the Republic of France concluded on the 30th of April, 1803, and were not claims growing out of the acts of France allowed and paid in whole or in part under the provisions of the treaty between the United States and Spain concluded on the 22d of February, 1819, and were not allowed in whole or in part under the provisions of the treaty between the United States and France of the 4th of July, 1831.

The claimants, in their representative capacity, are the owners of said claims which have never been assigned, nor does it appear that any of said claims were owned by an insurance company.

## CONCLUSIONS OF LAW.

The court decides, as conclusions of law, that said seizure and condemnation were illegal, and the owners had valid claims of indemnity therefor upon the French Republic prior to the ratification of the convention between the United States and the French Republic, concluded on the 30th day of September, 1800; that said claims were relinquished to France by the Government of the United States by said treaty in part consideration of the relinquishment of certain national claims of France against the United States, and that the claimants are entitled to the following sums from the United States:

No. 1840. Edward N. Dingley, administrator de bonis non cum testamento annexo of William Nickels, deceased, one thousand three hundred and sixty-nine dollars.....	\$1,369
No. 2520. Isaac F. Thompson, administrator of Robert Thompson, one thousand three hundred and sixty-nine dollars .....	1,369
No. 4068. David Chamberlain, administrator de bonis non cum testamento annexo of Samuel Miller, one thousand three hundred and sixty-nine dollars. ....	1,369
Total amount recoverable .....	4,107

BY THE COURT.

Filed December 2, 1901.

A true copy.

Test this 22d day of January, 1902.

[SEAL.]

JOHN RANDOLPH,  
Assistant Clerk Court of Claims.

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